



July 20, 1999

Mr. Gary Shaver
Boon, Shaver, Echols & Coleman, P.L.L.C.
1800 N. W. Loop 281, Suite 310
Longview, Texas 75615-1040

OR99-2026

Dear Mr. Shaver:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125866.

The Longview Independent School district (the "district"), which you represent, received a request for a student's standardized test and the identity of "the testing facility used."¹ The request was made by a parent of the student. You assert that the information is excepted from public disclosure by sections 552.110 and 552.122 of the Government Code. You also relate that the district is not in possession of this item and that the document does not belong to the district. You further assert that the information is owned by a third party and is obtainable only as permitted by that party.

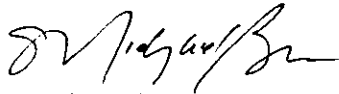
Section 552.002 of the Government Code defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Thus, information that is collected, assembled, or maintained by a third party may be subject to disclosure under chapter 552 of the Government Code if a governmental body *owns or has*

¹You have construed the language of the request as asking for the "identity of the testing company." A governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). We note that you have submitted a document to this office which includes the name of the subject company. As that document is responsive to this request, and not excepted from disclosure, it must be released to this requestor.

a right of access to the information. *See* Open Records Decision No. 462 (1987); *cf.* Open Records Decision No. 499 (1988). The Public Information Act does not require a governmental body to obtain information from another entity, so long as the entity does not hold the information on behalf of the governmental body. Open Records Decision No. 534 (1989). Further, a governmental body need not take affirmative steps to create or obtain information that is not in its possession. Open Records Decision No. 534 (1989). You relate that the district does not have possession, ownership, or right of access to the subject test. Therefore, the district need not attempt to obtain the information in response to this request.

As the discussion under section 552.002 is dispositive of this request, we do not address the district's arguments raised under other sections of the Government Code. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns".

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 125866

Encl. Submitted documents

cc: Mr. Steven Self
P.O. Box 3769
Longview, Texas 75606
(w/o enclosures)